

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.133 OF 2003

Shri Gurudas Narayan Kunde,
major, aged 66 years,
Indian National,
R/o F-1, Saraswati Krupa
Co-Op. Housing Society Ltd.,
Bela Vista,
Sangolda, Bardez, Goa ... PETITIONER

versus

1. The State of Goa,
through its Chief Secretary,
Secretariat,
Panaji, Goa;
2. Chief Engineer,
Water Resource Department,
Govt. of Goa,
Panaji, Goa ... RESPONDENTS.

Shri J.P. Mulgaonkar, Advocate for the Petitioner.

Shri A.N.S. Nadkarni, Advocate General, with Shri
N.K. Sawaikar, Addl. Government Advocate, for the
Respondents.

**CORAM : F.I. REBELLO &
P.V. HARDAS, JJ.**

DATED : JUNE 2, 2003.

ORAL ORDER (PER F.I. REBELLO, J.)

The Petitioner had earlier approached this Court by way of writ petition for the very same reliefs which are presently prayed for. That petition was numbered as Writ Petition no.186 of 2000. A Division Bench of this Court, after hearing the parties, by Order dated 31st July, 2000

dismissed the petition.

2. On the next day, on behalf of the Petitioner, a request was made to the Court that the earlier Order be re-called as the petitioner desires to withdraw the petition. The learned Division Bench considering that the Petitioner was appearing in person at that stage, permitted him to withdraw the Petition but did not grant any leave to file a fresh petition based on the cause of action as pleaded in that petition. When the Order was passed on 31st July, 2000, the Petitioner was represented by an Advocate appointed under Legal Aid Scheme.

3. The present Petition filed by the Petitioner is on the ground that he has now come across a document whereby the Government has given to one Rajadhyax a sum of Rs.4,00,000/- as compensation. The argument about payment of compensation was in issue in the earlier Petition. Respondents therein had filed Affidavit and in paragraph 19 of that Affidavit it was pointed out that that Scheme was for those who had been rehabilitated earlier and whose land had again submerged. On behalf of the Respondents State, the Additional Government Advocate points out that

Rajadhyax was one of those who had opted for re-settlement and was allotted land, but the land had again been submerged. It was in those circumstances that he was paid compensation as part of the Government policy decision. The case, therefore, sought to be relied upon by the Petitioner to make out a fresh case to file this Petition does not exist as the very issue that the Petitioner is arguing was an issue in the earlier Petition and the case of Rajadhyax is distinct and different. The Petitioner had been paid compensation for the land which was acquired. He had not exercised the option for rehabilitation. It was sought to be argued that the document not to exercise the option was not that of the Petitioner. That was in issue in the earlier petition which was allowed to be withdrawn by recalling the earlier Order of dismissal of the Petition. In these circumstances no interference is called for.

4. Petition is dismissed.

F.I. REBELLO, J.

P.V. HARDAS, J.